

5101:3-3-17.3

Page 4 of 6

limits they place on his/her ability to safely, accurately and completely carry out his/her household, community, work and leisure ADLs.	
Minimal supervision for safety in routine home and community activities.	
Unrealistic planning for the future.	
Unable to think about consequences of a decision or action.	
Overestimates abilities.	
Unaware of others' needs and feelings.	
Oppositional/uncooperative.	
Unable to recognize inappropriate social interaction behavior.	
Level VIII	Purposeful, Appropriate: Stand-By Assistance
Consistently oriented to person, place and time.	
Independently attends to and completes familiar tasks for 1 hour in distracting environments.	
Able to recall and integrate past and recent events.	
Uses assistive memory devices to recall daily schedule, "to do" lists and record critical information for later use with stand-by assistance.	
Initiates and carries out steps to complete familiar personal, household, community, work and leisure routines with stand-by assistance and can modify the plan when needed with minimal assistance.	
Requires no assistance once new tasks/activities are learned.	
Aware of and acknowledges impairments and disabilities when they interfere with task completion but requires stand-by assistance to take appropriate corrective action.	
Thinks about consequences of a decision or action with minimal assistance.	
Overestimates or underestimates abilities.	
Acknowledges others' needs and feelings and responds appropriately with minimal assistance.	
Depressed.	
Irritable.	
Low frustration tolerance/easily angered.	
Argumentative.	

IN ~~#04-009~~ APPROVAL DATE AUG 24 2004
SUPERSEDES
TN ~~#02-04~~ EFFECTIVE DATE 07/01/04

5101:3-3-17.3

Page 5 of 6

Self-centered.	
Uncharacteristically dependent/independent.	
Able to recognize and acknowledge inappropriate social interaction behavior while it is occurring and takes corrective action with minimal assistance.	
Level IX	Purposeful, Appropriate: Stand-By Assistance on Request
Independently shifts back and forth between tasks and completes them accurately for at least two consecutive hours.	
Uses assistive memory devices to recall daily schedule, "to do" lists and record critical information for later use with assistance when requested.	
Initiates and carries out steps to complete familiar personal, household, work and leisure tasks independently and unfamiliar personal, household, work and leisure tasks with assistance when requested.	
Aware of and acknowledges impairments and disabilities when they interfere with task completion and takes appropriate corrective action but requires stand-by assist to anticipate a problem before it occurs and take action to avoid it.	
Able to think about consequences of decisions or actions with assistance when requested.	
Accurately estimates abilities but requires stand-by assistance to adjust to task demands.	
Acknowledges others' needs and feelings and responds appropriately with stand-by assistance.	
Depression may continue.	
May be easily irritable.	
May have low frustration tolerance.	
Able to self monitor appropriateness of social interaction with stand-by assistance.	
Level X	Purposeful, Appropriate: Modified Independent
Able to handle multiple tasks simultaneously in all environments but may require periodic breaks.	
Able to independently procure, create and maintain own assistive memory devices.	
Independently initiates and carries out steps to complete familiar and unfamiliar personal, household, community, work and leisure tasks but may require more than usual amount of time and/or compensatory strategies to complete them.	

TN #04-009 APPROVAL DATE AUG 24 2004
SUPERSEDES
TN #02-014 EFFECTIVE DATE 07/01/04

5101:3-3-17.3

Page 6 of 6

Anticipates impact of impairments and disabilities on ability to complete daily living tasks and takes action to avoid problems before they occur but may require more than usual amount of time and/or compensatory strategies.
Able to independently think about consequences of decisions or actions but may require more than usual amount of time and/or compensatory strategies to select the appropriate decision or action.
Accurately estimates abilities and independently adjusts to task demands.
Able to recognize the needs and feelings of others and automatically respond in appropriate manner.
Periodic periods of depression may occur.
Irritability and low frustration tolerance when sick, fatigued and/or under emotional stress.
Social interaction behavior is consistently appropriate.

TN #04-009 APPROVAL DATE AUG 24 2004
SUPERSEDES
TN #02-014 EFFECTIVE DATE 07/01/04

5101:3-3-25

Payment methodology for the provision of outlier services.**(A) Purpose:**

This rule identifies the methodology for reimbursement of outlier providers. This rule sets forth:

- (1) In paragraph (C) of this rule, the initial contract rate calculation for payment to an outlier provider; and
- (2) In paragraph (D) of this rule, the process for establishing contracted rates subsequent to the initial rate year for the outlier provider; and
- (3) In paragraph (E) of this rule, the methodology for calculating the prospective rates for direct care costs, other protected costs, indirect care costs, and capital costs that will be determined and paid each fiscal year to outlier providers for the provision of outlier services as defined in paragraph (B)(3) of this rule.

(B) Definitions.

- (1) "Individual" means any person who is seeking or receiving medicaid coverage for placement in an Ohio medicaid-certified nursing facility (NF) or intermediate care facility for the mentally retarded (ICF-MR) that is an approved outlier provider
- (2) "Individual plan (IP)" means a written description of the services to be provided to an individual, developed by an interdisciplinary team that represents the professions, disciplines or service areas that are relevant to identifying the individual's needs, as described by the comprehensive functional assessments.
- (3) "Outlier services" are those clusters of services which have been determined by Ohio department of job and family services (ODJFS) to require staffing ratios, certain indirect costs, and capital investments beyond the levels otherwise addressed in rules 5101:3-3-43 and 5101:3-3-78 of the Administrative Code when delivered by outlier providers to individuals who have been prior authorized for the receipt of a category of service identified as an outlier service by ODJFS and/or set forth as such in Chapter 5101:3-3 of the Administrative Code
- (4) "Outlier prior authorization committee" means a committee organized and operated by ODJFS that makes outlier prior authorization determinations.

TN #04-009 APPROVAL DATE

AUG 24 2004

[stylesheet: rdcxsl 2.14, authoring tool: i4i 2.0 Apr 9, 2003, rev: 5, p: 2731, pa: 19398, cu: 66403, d: 65146]

SUPERSEDES

print date: 06/24/2004 02:41 PM

TN #02-014 EFFECTIVE DATE 07/01/04

5101:3-3-25

2

- (5) "Outlier provider" means any NF, ICF-MR, or distinct part unit of a NF or ICF-MR, identified as such, or identified and paid as such by ODJFS prior to July 1, 1993, or approved in accordance with rule 5101:3-3-54.1, 5101:3-3-54.5, or 5101:3-3-87.1 of the Administrative Code that provides services only to individuals who have received prior authorization from the outlier prior authorization committee for the receipt of outlier services in that facility. ODJFS prior authorization of outlier services is contingent upon both the individual's documented need for that specific type of outlier service and evidence that the facility in which the individual is to receive services maintains the staffing ratios and certain indirect care items at levels sufficient for the provision of that type of outlier service, and has made the capital investments necessary for the provision of such care.

(C) Initial contracted rate.

- (1) The initial rate for a newly approved outlier provider of prior authorized outlier services will be set in accordance with rule 5101:3-3-86 of the Administrative Code for ICFS-IMRs and rule 5101:3-3-53 of the Administrative Code for NFs.
- (2) ODJFS will establish the initial contracted rate in accordance with paragraph (E) of this rule no later than ninety days after ODJFS receives all the required information. The initial contracted rate will be implemented retroactively to the initial date services were provided pursuant to the outlier provider agreement
- (a) The following information may be submitted as soon as the provider receives notification from ODJFS of the effective date of the outlier provider agreement, but must be submitted within ninety days of the provider agreement's effective date.
- (i) The projected cost report budget for the initial year of operation; and
- (ii) The current calendar year capital expenditure plan, including a detailed asset listing; and
- (iii) The current calendar year plan for basic staffing patterns, using a format to be approved by ODJFS, that includes the staff schedule by shift, number of staff in each position, staff position descriptions, base wage rates, and a brief explanation of contingencies that may require adjustments to these basic staffing patterns.

TN #04-009 APPROVAL DATE AUG. 24 2004
SUPERSEDES
TN #02-014 EFFECTIVE DATE 07/01/04

5101:3-3-25

3

(b) The following information must be submitted no later than ninety days after the end of the initial three months of operation as an outlier provider;

(i) A cost report for the period of the initial three months of service; and

(ii) Current individual plans (IPs) for residents to be served in the period for which a rate is being established.

(D) Contracted rates subsequent to the initial rate year.

(1) The contracted rate will be effective for the fiscal year beginning on the first of July and ending on the thirtieth day of June of the following calendar year.

(2) ODJFS will establish the contracted rate in accordance with paragraph (E) of this rule no later than the thirty-first day of July of the fiscal year for which the rate will be paid, unless the provider fails to submit all required information by the thirty-first of March. If the provider fails to submit the required information, ODJFS will assign to the outlier provider the ~~simple average rate~~ calculated statewide mean rate per diem paid for services delivered during the month of July to all NFs or ICF-MRs according to the facility type of the outlier provider, and establish the contracted rate no later than ninety days after all information is submitted, but no earlier than the first day of August. The contracted rate shall be implemented retroactively to the beginning of the fiscal year.

(3) The following information must be submitted by the provider in order to establish the contracted rate for any year subsequent to the year of the initial contracted rate:

(a) Case mix data.

Completed JFS 02221, "Ohio ICF-MR Individual Assessment Form Answer Sheets" must be completed and submitted for each resident of an ICF-IMR outlier provider in accordance with the requirements and deadlines set forth in rule 5101:3-3-75 of the Administrative Code. The MDS 2.0 resident assessment must be completed and submitted for each resident of a NF outlier provider in accordance with the requirements and deadlines set forth in rule 5101:3-3-41 of the Administrative Code; and

(b) IPs.

TN #~~01-09~~ APPROVAL DATE AUG 24 2004
SUPERSEDES
TN #~~02-04~~ EFFECTIVE DATE 07/01/04

5101:3-3-25

4

Current individual plans (IPs) for residents to be served in the period for which a rate is being established, filed by the thirty-first of March of the current calendar year; and

(c) Cost report and budget information.

The actual year end cost report shall be submitted within the deadline specified in accordance with rule 5101:3-3-20 of the Administrative Code. The current calendar year cost report budget shall be submitted by the thirty-first of March of the current calendar year, in conjunction with the previous calendar year's actual cost report; and

(d) Financial statement information.

(i) For-profit providers shall submit a balance sheet, income statement, and statement of cash flows for the outlier facility no later than the thirty-first of March of the following calendar year relating to the previous calendar year's actual cost report submitted in accordance with paragraph (D)(3)(c) of this rule; or

(ii) Not-for-profit providers shall submit a statement of financial position, statement of activities, and statement of cash flows for the outlier facility no later than the thirty-first of March of the following calendar year relating to the previous calendar year's actual cost report submitted in accordance with paragraph (D)(3)(c) of this rule; and

(e) Capital expenditure plan.

The current calendar year capital expenditure plan, including the detailed asset listing, shall be filed by the thirty-first of March of the current calendar year; and

(f) Staffing pattern plan.

The current calendar year plan for basic staffing patterns, using a format to be approved by ODJFS, that includes the staff schedule by shift, number of staff in each position, staff position descriptions, base wage rates, and a brief explanation of contingencies that may require adjustments to these basic staffing patterns shall be filed by the thirty-first of March of the current calendar year; and

(g) Board minutes.

TN #04-004 APPROVAL DATE AUG 24 2004

SUPERSEDES

TN #02-014 EFFECTIVE DATE 07/01/04

5101:3-3-25

5

Approved board minutes from the legal entity holding the provider agreement and all other related legal entities for the calendar year covered by the actual cost report shall be filed by the thirty-first of March of the following calendar year.

(E) Medicaid per diem payments to outlier providers shall be based upon reasonable and allowable costs using the methodology set forth in paragraphs (E)(1) to (E)(3) of this rule.

(1) There shall be four components of the per diem rate: direct care, other protected, indirect care, and capital.

(a) The direct care per diem shall be based on the greater of the actual occupancy rate or an occupancy rate of seventy-five per cent. The direct care per diem shall consider an analysis of historical direct care costs if the provider had previously been a medicaid provider, a comparison of direct care costs and staffing ratios of facilities caring for individuals with similar needs, a comparison of payment rates paid by private insurers and/or other states, and an analysis of the impact upon historical costs if there are plans to change the patient mix. Adjustments may be made above the peer group cost per case mix unit ceiling for increased direct care costs.

(b) The other protected per diem shall be determined in accordance with the methodologies for NFs and ICFs-MR set forth in rules 5101:3-3-49 and 5101:3-3-82 of the Administrative Code.

(c) The indirect care per diem shall be based on the indirect cost methodologies for NFs and ICFs-MR set forth in rules 5101:3-3-50 and 5101:3-3-83 of the Administrative Code. The ceiling may be increased due to increased dietary expenditures, incontinence supply costs, or any other expenses deemed necessary by ODJFS.

(d) The capital per diem shall be based upon the payment methodologies for NFs and ICFs-MR, set forth in rules 5101:3-3-51 and 5101:3-3-84 of the Administrative Code. Adjustments may be made for special high cost built-in equipment necessary to treat individuals requiring outlier services or any other capital expenditure deemed necessary by ODJFS.

(2) The total prospective rate for NFs and ICFs-MR, or distinct part units on JFs and ICFs-MR, providing outlier services shall be established by combining the allowable direct, other protected, indirect, and capital per diems

TN ~~#01-009~~ APPROVAL DATE AUG 24 2004
SUPERSEDES
TN ~~#02-014~~ EFFECTIVE DATE 07/01/04

5101:3-3-25

7

Effective: 07/01/2004

R.C. 119.032 review dates: 04/15/2004 and 07/01/2009

CERTIFIED ELECTRONICALLY

Certification

06/21/2004

Date

Promulgated Under: 119.03
Statutory Authority: 5111.02
Rule Amplifies: 5111.01, 5111.02, 5111.20,
5111.257
Prior Effective Dates: 9/30/93, 7/1/02

TN #~~04~~-009 APPROVAL DATE AUG 24 2004
SUPERSEDES
TN #~~02~~-014 EFFECTIVE DATE 07/01/04

5101:3-3-25

6

determined in accordance with paragraphs (E)(1)(a) to (E)(1)(d) of this rule.

- (3) With the exception of those aspects set forth in paragraphs (E)(1) and (E)(2) of this rule, the method for establishing the total prospective rate for NFs, ICFs-MR, or distinct part units of NFs or ICFs-MR, that provide outlier services shall be in accordance with the provisions set forth for NFs and ICFs-MR in rules 5101:3-3-43 and 5101:3-3-78 of the Administrative Code.
- (F) Those facilities approved by ODJFS as outlier providers shall receive rates established in accordance with this rule for individuals that have been prior authorized by the outlier prior authorization committee. The outlier providers shall receive rates established in accordance with this rule effective on the first day of the month in which prior authorized outlier services were provided, but no earlier than the first day of the month in which the approved application for an outlier provider agreement was received by ODJFS.

TN #04-009 APPROVAL DATE AUG 24 2004
SUPERSEDES
TN #02-94 EFFECTIVE DATE 07/01/04